MONTANA LEGISLATIVE HISTORY

Chapter 156 19 83

Bill H _____ S 196 Original bill & history ___C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	March	✓C	Hearing Date(s)	Feb 01	✓C
	_____	___C		Feb 02	✓C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	_____	___C			

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

SB 195 -- CRIPPEN -- DEFINING "HASHISH" FOR THE PURPOSES OF THE CONTROLLED SUBSTANCES LAWS....

INTRODUCED: 01/18/83
REFERRED TO COMMITTEE ON JUDICIARY: 01/18/83
HEARING: 1/25/83
REPORT: 01/25/83, DO PASS
2ND READING: 01/27/83 AYES: 48; NAYS: 0
3RD READING: 01/29/83 AYES: 48; NAYS: 0

TRANSMITTED TO HOUSE: 1/29/83
REFERRED TO COMMITTEE ON JUDICIARY: 01/29/83
HEARING: 3/9/83
REPORT: 03/09/83, BE CONCURRED IN
2ND READING: 03/10/83, BE CONCURRED IN AYES: 93, NAYS: 1
3RD READING: 03/11/83, BE CONCURRED IN AYES: 98; NAYS: 1

RETURNED TO SENATE: 3/11/83

TRANSMITTED TO GOVERNOR: 03/18/83
SIGNED: 03/22/83, CHAPTER 155

SB 196 -- VAN VALKENBURG, MAZUREK, STIMATZ, ET AL. -- PROVIDING FOR AN INCREASE IN COURT REPORTERS' SALARIES AND FOR AN ANNUAL COST-OF-LIVING INCREASE ....

INTRODUCED: 01/18/83
REFERRED TO COMMITTEE ON JUDICIARY: 01/18/83
HEARING: 2/1/83
REPORT: 2/3/83, DO PASS
2ND READING: 02/07/83 AYES: 35, NAYS: 10
ON MOTION, 2/8/83, THAT THE BILL BE TAKEN FROM 3RD READING AND REREFERRED TO 2ND READING. MOTION FAILED: AYES: 17; NAYS: 33.
3RD READING: 02/09/83 AYES: 38; NAYS: 11

TRANSMITTED TO HOUSE: 2/9/83
REFERRED TO COMMITTEE ON JUDICIARY: 02/10/83
HEARING: 3/4/83
REPORT: 03/05/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/08/83, BE CONCURRED IN AYES: 71: NAYS: 22
3RD READING: 03/09/83, BE CONCURRED IN AYES: 78; NAYS: 19

RETURNED TO SENATE WITH AMENDMENTS: 03/10/83
2ND READING: 03/11/83 AYES: 49; NAYS: 0
3RD READING: 03/12/83 AYES: 44; NAYS: 03

TRANSMITTED TO GOVERNOR: 03/18/83
SIGNED: 03/22/83, CHAPTER 156

SB 197 -- MAZUREK -- AMENDING THE VETERANS AND DISABLED PERSONS EMPLOYMENT PREFERENC LAW TO CLARIFY THE NATURE OF THE PREFERENCE AND THE PROCEDURES FOR APPLYING IT; .. AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

INTRODUCED: 01/18/83
REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS: 01/18/83
HEARING: 2/3/83
ON MOTION, 2/22/83, THAT THE BILL BE PRINTED AND PLACED ON 2ND READING. MOTIO PASSED.

Senate BILL NO. 196

INTRODUCED BY Van Valkenburg, Margaret Warden, Keating, Crippen, Bob Brown, Dave McCallum

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN INCREASE IN COURT REPORTERS' SALARIES AND FOR AN ANNUAL COST-OF-LIVING INCREASE; REQUIRING THAT OFFICIAL NOTES OF PROCEEDINGS BE STORED FOR 10 YEARS IN THE COUNTY WHERE THE PROCEEDINGS WERE HELD; AND PROVIDING FOR CHANGES IN COURT REPORTERS' DUTIES CONCERNING TRANSCRIPTS AND TRANSCRIPT FEES; AMENDING SECTIONS 3-5-602 THROUGH 3-5-604, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-5-602, MCA, is amended to read:

"3-5-602. Salary and expenses -- apportionment. (1) Each reporter is entitled to receive ~~an~~ a base annual salary of not less than ~~$14,000~~ $18,000 or more than ~~$20,000~~ $26,000 and no other compensation except as provided in 3-5-604. The salary shall be set by the judge ~~in--the district--in--which~~ for whom the reporter works. The judge shall, on or before July 1, 1984, and on or before July 1 of each year thereafter, adjust and fix the salary of the court reporter for a cost-of-living increase by adding to his annual salary on July 1 of each year an increment of 70% of the previous calendar year's consumer price index for all urban consumers, U.S. department of labor, bureau of labor statistics, or other index that the bureau of business and economic research of the university of Montana may in the future recognize as the successor to that index. The cost-of-living increment for the fiscal year beginning July 1, 1984, and for each subsequent fiscal year shall be added to all cost-of-living increments granted for previous years. ~~It~~ The salary is payable in monthly installments out of the general funds of the counties comprising the district for which the reporter is appointed. Each county shall pay its portion of the salary based on its proportion of the total number of civil and criminal actions commenced in the district courts in the district in the preceding year. The judge of the district shall, on January 1 of each year or as soon thereafter as possible, apportion the amount of the salary to be paid by each county in his district on the basis prescribed in this subsection. The salary is a district court expense within the meaning of 7-6-2351, 7-6-2352, and 7-6-2511.

(2) In judicial districts comprising more than one county, the reporter is allowed, in addition to the salary and fees provided for in subsection (1), his actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, when he goes on official business to a county of his judicial district other than the county in which he resides, from the time he leaves his place of

INTRODUCED BILL
SB 196

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residence until he returns thereto. The expenses shall be apportioned and payable in the same way as the salary."

Section 2. Section 3-5-603, MCA, is amended to read:

"3-5-603. Duties. ~~(1)~~ Each reporter must, under the direction of the judge, attend all sittings of the court and take full stenographic notes of the testimony and of all proceedings given or had thereat except when the judge dispenses with ~~his~~ the reporter's services in a particular cause or with respect to a portion of the proceedings therein. The reporter must file with the clerk forthwith the original stenographic notes taken upon a trial or hearing required to be taken by this subsection. The county in which the proceedings are held shall provide a safe and secure place for the clerk to store all official notes of the proceedings. The official notes must be kept for a period of 10 years.

~~(2) All objections made during the trial or hearing and the rulings, decisions, and opinions of the court must be written out at length or printed in type by the reporter and filed with the clerk immediately after the close of the trial or hearing.~~"

Section 3. Section 3-5-604, MCA, is amended to read:

"3-5-604. ~~Copies~~ Transcript of proceedings. (1) Each reporter must furnish, upon request, with all reasonable diligence, to ~~the defendant in a criminal case or~~ a party or

his attorney in a ~~civil~~ case in which he has attended the trial or hearing a ~~copy, written out at length or in narrative form~~ transcript from his stenographic notes, of the testimony and proceedings ~~upon~~ of the trial or hearing or a part thereof for purposes of perfecting an appeal, upon payment by the person requiring the same ~~of 10 cents per folio~~ $2.00 per page for the original transcript, 50 cents per page for the first copy, 25 cents per page for each additional copy or at the maximum ordinary transcript rates authorized by the U.S. judicial conference, whichever is greater.

(2) If the county attorney, attorney general, or judge requires a ~~copy~~ transcript in a criminal case, the reporter is entitled to his fees therefor, but he must furnish it. Upon furnishing it, he shall receive a certificate of the sum to which he is so entitled, which is a county charge and must be paid by the county treasurer upon the certificate like other county charges.

(3) ~~If the judge requires a copy in a civil case to assist him in rendering a decision, the reporter must furnish the same without charge therefor.~~ In civil cases, all transcripts required by the judge or the county shall be furnished ~~without cost~~, and only the reporter's actual costs of preparation may be paid by the county.

(4) If it appears to the judge that a defendant in a

criminal case is unable to pay for a ~~copy~~ transcript, it shall be furnished to him and paid for by the county."

-End-

STATE OF MONTANA

REQUEST NO. 146-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 19 83, there is hereby submitted a Fiscal Note for Senate Bill 196 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 196 is an act providing for:

a) an increase in Court Reporters' salaries with annual cost-of-living adjustments;
b) requiring that official notes of proceedings be stored for 10 years in the county where the proceedings were held; and
c) changes in Court Reporters' duties concerning transcripts and transcript fees.

ASSUMPTIONS:

1) The number of county funded Court Reporters statewide is the same as the number of District Court Judges; 32.
2) All Court Reporters are now receiving the maximum salary allowable under the current law ($20,000/yr.).
3) The CPI will be approximately the same in 1983 as it is in 1982; about 6%.

FISCAL IMPACT:

This bill would have an impact on the county or local level only.

LOCAL IMPACT:

Proposed Law	FY84	FY85
Personal Services (4.2%/yr)*		
Under Proposed Law	800,256	833,867
Under Current Law	768,000	768,000
Increased Expenditures under Proposed Law	$ 32,256	$ 65,867

Continued

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-24-83

NOTE:

A dollar amount for the fee increase is not included above because base information on what counties statewide currently expend on transcripts is not available. However, the amount each county paid out in transcript fees would increase by 94% for criminal and 116% for civil, determined as follows:

Transcript	Rate Under Current Law	Rate Under Proposed Law	% Increase
Criminal	1.80/pg.	3.50/pg.	94%
Civil	1.50/pg.	3.25/pg.	116%

* (1982 CPI = 6%) x 70% = 4.2% FY84, (1983 CPI = 6%) x 70% = 4.2% FY85.

FISCAL NOTE 7:S/2

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 1, 1983

The nineteenth meeting of the Senate Judiciary Committee was called to order by Chairman Jean A. Turnage on February 1, 1983 at 10:03 a.m. in Room 325, State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 196: Senator VanValkenburg, sponsor, explained the intent of the bill to the Committee. Section 1 would provide for the base salary of a court reporter to be raised to a minimum of $18,000 and maximum of $26,000. It would also attempt to provide for an annual cost-of-living adjustment to their salary. Section 2 deals with storage of court reporters' notes and requires that the county provide for safe and secure storage of these notes for a period of 10 years. Senator VanValkenburg also felt that the Bar should be advised of this change. Section 3 attempts to change the method of payment for production of transcripts from the folio basis to a per page rate of pay.

PROPONENTS: Bob Nieboer, representing the Montana Shorthand Reporters' Association, spoke in support of SB196 and explained how court reporters' salaries are currently inadequate when compared to other states. He stated this is a difficult, stressful and high preasure job. He then distributed a handout which commented on the necessity of passing SB196 (Exhibit "A").

Marlene Jordan, representing the Montana Shorthand Reporters' Association, also testified in support of the bill. She distributed a typical week's schedule for a district court reporter and detailed the stress and long hours of the job (Exhibit "B"). She also stated that the folio method of calculating pay for transcripts was very old fashioned while a per page rate would enable court reporters to calculate costs of appeals more easily.

There being no further proponents, and no opponents, the hearing was opened to questions from the Committee.

Senator Mazurek questioned if there would be a need to vary court reporter salaries between counties. Jerry Anderson, representing the Montana Shorthand Reporters' Association, responded that court reporters' duties vary between small and large counties, but the judge normally sets the salaries accordingly. He did not feel the legislature should have to do this.

Chairman Turnage requested Jerry Anderson to calculate the cost of living increases for the past three years and provide these figures to the Committee. Chairman Turnage also inquired if

the wording "for purposes of perfecting an appeal" could be interpretted to mean a court reporter could prepare an appeal transcript at their discretion in all other cases. Marlene Jordan advised that this was not their intention. They merely meant to update the language in the bill. Chairman Turnage then inquired as to what the actual expenses were for preparation of appeal transcripts as referred to in page 4, line 23 of the bill. Jerry Anderson advised that this was to include paper and supplies and not to include the salary of the reporter.

Senator VanValkenburg closed by saying he would be happy to meet with the Committee to work on any amendments necessary for the passage of this bill. He also made note that there were other court reporters present in the hearing room. The essential purpose of his bill is to raise court reporters' salaries so as to continue to attract competent people to the district courts. He felt that since a mill levy could be assessed for district court purposes, there should be no problem in funding these salary increases.

Chairman Turnage closed the hearing by advising that other letters of support had been received and mention of them should be included in these minutes.

CONSIDERATION OF SENATE BILL 220: Senator Daniels advised that he was sponsoring this bill on behalf of the Department of Institutions. He then introduced Nick Rotering who would explain the intention of the bill.

PROPONENTS: Nick Rotering, representing the Department of Institutions, stated that SB220 would give legislative authority to the Warden of the Montana State Prison to restore good time to eligible prisoners with the approval of the Department. It was his opinion that the Warden should have this prerogative.

Curt Chisholm, Executive Director for the Department of Institutions, advised that the need for this bill arose from a Supreme Court decision. He went on to enumerate how essential the role of good time is as an incentive and encouragement for prisoners to progress through the system.

Hank Risley, Warden of Montana State Prison, testified in support of this bill. He advised that good time is an important tool to managing an institution and is most significant as an incentive. He advised that discipline problems have increased in those prisons where good time was discontinued.

There being no further proponents, and no opponents, the hearing was opened to questions from the Committee.

Senator Mazurek questioned the need for the approval by the Department before the warden could reinstate the good time. Hank Risley advised that the current statute requires approval by the Department before the Warden can take away good time, so as to prevent any mischief on the part of the Warden.

There being no further questions, the hearing was closed.

CONSIDERATION OF SENATE BILL 225: Senator Daniels advised that he was again sponsoring this bill on behalf of the Department of Institutions.

PROPONENTS: Nick Rotering, representing the Department of Institutions, presented this bill to the Committee. He stated that it would allow the staff at the institutions an additional five days to complete evaluations and paperwork before the release of a person who had voluntarily committed himself. He felt this additional five days is necessary as it would allow the institution more time to make a good programatic decision, and that sometimes the patients change their mind after requesting release. He feels this bill is in the interests of the patient.

Curt Chisholm, representing the Department of Institutions, also spoke in support of SB225. He advised that it was drafted after much internal discussion by the Department of Institutions and it was their opinion that the five days would allow them more time to adequately assess the problems of the patient. He explained the "intake" program a patient goes through. He then emphasized that it is not their objective to try to detain the patient any longer than necessary.

OPPONENTS: Joy McGrath, representing the Mental Health Association of Montana, enumerated three reasons for the Association's opposition to this bill: (1) the current law provides adequate time to file a petition, (2) extension of time by 5 days would promote less efficient operation of the institution, and (3) the bill is a violation of the individual who commits himself's rights. She urged careful consideration and a do not pass recommendation from the Committee.

There being no further proponents or opponents, the hearing was opened to questions from the Committee.

The Committee questioned Curt Chisholm extensively regarding evaluation programs, liability for release, average stay of committed and out-patient programs. There being no further questions, the hearing was closed.

EXHIBIT "A"
February 1, 1983

COMMENTS IN SUPPORT OF S.B.196

Senate Bill 196, introduced by Senator Van Valkenberg and others, addresses three principal matters concerning official court reporters--those being: (1) salary limitations; (2) cost of living adjustments; (3) compensation for preparation of transcript on appeal; and (4) provision of storage facilities for reporters' notes. This legislation does not affect "free-lance" reporters who are not employed by a district judge.

SALARY AND COST OF LIVING ADJUSTMENT

Present law provides that a court reporter shall be paid an annual salary of not less than $14,000 nor more than $20,000. The actual salary amount is set by the Judge for whom the reporter works. SB196 proposes to raise the salary range to not less than $18,000 nor more than $26,000 per year.

SB196 also adds to the statute a provision for an annual cost of living adjustment to be added to the court reporter's base annual salary each year. The proposed cost of living adjustment is the same as that now provided for juvenile probation officers. The amount of the adjustment is the equivalent of 70% of the previous calendar year's consumer price index.

The increase in annual salary levels and the application of a cost of living adjustment is requested in SB196 to end the necessity for court reporters to come to each general session of the legislature seeking salary adjustments.

Salaries of official court reporters in Montana vary from $15,000 to $20,000 per year. In contrast, one Federal Court reporter in Montana is paid $32,000 per year and another is working for a Federal Judge under contract for $30.00/hour with a $200.00 per day maximum.

Salaries for court reporters in surrounding states are generally higher than Montana and in some cases include cost of living adjustments. Salaries in other states are:

North Dakota

Class I	$18,000 to $27,000	(The lower figure is entry figure; after 6 months the salary is increased.)
Class II	$21,600 to $31,000	(Average salary being paid Class II reporters is $28,000 per year.)

Idaho

$24,000 per year with cost of living index.

Wyoming

$27,795 per year.

Washington

$15,000 to $30,000 per year, varying with the size of the counties and with cost of living index for lower paid reporters.

Utah

$21,000 per year with 3% increment.

South Dakota

$17,180 per year with cost of living adjustment.

During the month of January 1983, a court reporter for a District Judge in Helena accepted a position with a Judge in Lander, Wyoming, at the Wyoming salary of $27,795 per year.

The statutory salary maximum for court reporters was $16,000 per year in 1975 and was increased to $18,000 per year in 1979, and to $20,000 per year in 1981. If a 7% per year increase had been applied during the period 1975 through 1981, the salary maximum should have been set at $24,000 rather than the present $20,000 figure.

The proponents believe that the amounts set in SB196, together with the COLA, allow sufficient flexibility in establishing reporters' salaries so that reporters will not have to come back to the legislature session after session for salary relief.

COMPENSATION FOR PREPARATION OF TRANSCRIPTS ON APPEAL

Section 3 of SB196 provides for specific amounts to be paid by litigants for preparation of transcripts on appeal. This is the amount set by the U.S. Judicial Conference to be paid in connection with appeals in Federal Court.

Whenever a party in a civil or criminal action desires to appeal from a judgment or order of a district court or administrative agency under circumstances where a hearing or trial has been held, all or certain portions of the testimony or proceeding in the district court will be designated as part of the record on appeal. This is called the transcript and is prepared by the court reporter from the stenographic notes made by the reporter at the time of the testimony or proceedings. The cost of prepar[illegible]

paid by the parties to the law-suit. The only time the cost is borne by the county or the state is in cases of appeals by indigent defendants in criminal cases or when the state is a litigant.

Montana law (Sec. 3-5-604, MCA) presently provides that the reporter be compensated at the rate of 10¢ per folio for preparation of the transcript. While there is some variance as to the definition of a "folio" it is generally accepted that one page contains three (3) folios. Thus, the present statute only allows payment of 30¢ per page. The appellant must file one original and four copies of the transcript. Thus, the reporter is paid $1.50 per page for one original and four copies of the transcript. This amount does not adequately compensate a reporter for the work done and materials furnished by the reporter in preparation of the transcript. It is pertinent to note that transcript preparation involves work done by the reporter which is in addition to the reporter's normal duties and is generally accomplished at night or on weekends.

In contrast, the following transcript rates are paid in surrounding states:

Wyoming

$2.25 per page for original and for one copy.
.90 per page for each additional copy

(Is $4.95 per page for 1 original and 4 copies, as compared to $1.50 per page in Montana.)

South Dakota

~~60¢~~ $1.50
~~per folio~~ or ~~$1.50~~ per page for original.
~~.50 per folio or $1.50~~ per page for copies.
$1.35 .50¢

(Is ~~$1.50~~ per page for original and 4 copies as compared to $1.50 per page in Montana for the same number.)

Washington

$2.00 per page for indigents.

(Is $10.00 per page for original and 4 copies as compared to $1.50 per page for same number in Montana.)

In all other cases the rate is established by agreement between the reporter and the appellant.

North Dakota

$1.90 per page for original
.35 per page for first copy
.15 per page for each additional copy

"A"
2-1-83

North Dakota (continued)

(Is $2.70 per page for original and 4 copies as compared to $1.50 per page for same number in Montana.)

Idaho

$2.00 per page for original. Copies in the amount agreed to.

Utah

$0.50 per folio for all pages. (Is $1.50 per page.)

(Is $7.50 per page for original and 4 copies as compared to $1.50 in Montana.)

A review of the above figures makes it clear that reporters in Montana receive substantially less than reporters in other surrounding states for transcript work.

The amount of transcript work done by each reporter varies with the activity of the court in which they serve. Some may have none during a year's time and others may have several.

We re-emphasize that transcript work is work that is in addition to the normal work done by reporters.

SB196 additionally provides that in civil cases all transcripts required by the judge or the county shall be furnished by the reporter and only the reporter's actual costs of preparation (paper, ink, etc.) shall be paid by the county.

STORAGE OF REPORTERS' NOTES

Section 2 of SB196 adds a provision in the statute which requires the county to provide for the Clerk of Court a safe and secure place for the storage of all official notes of court proceedings. These are notes taken by the court reporter. Present practice with regard to storage of these notes has varied from one district to another because, in many districts, the Clerks of Court have not had sufficient room available for such storage. Such notes should be filed with the Clerk of Court so that the notes are in the custody of a permanent and continuing office. This provision of SB196 simply ensures that a place will be made available for such storage.

-oOo-

Prepared and circulated by

EXHIBIT "B"
February 1, 1983

TYPICAL WEEK'S SCHEDULE

Monday - Missoula (Law & Motion):

8:30 a.m. - 6:00 p.m.

Reporter's Duties:	Number of Hours
In-court duties; i.e., making a verbatim stenographic record of all matters before the Court, including criminal cases; probates, default divorces, and other ex parte matters; show-cause hearings; non-jury trials; and sanity hearings	6
Duties performed for judge, including reading of stenographic notes in cases pending decision, screening of phone calls, and transcription of judge's comments made to defendants on sentencing in criminal cases (no fee charged for transcripts)	2.5
Assembly of notes to be filed with the Clerk of Court	1/2
Miscellaneous duties, including filing of notes, calendaring of cases, scheduling of judge's appointments, and maintenance of shorthand machine	1/2
[Lunch]	1/2
Total Number of Hours	10

Tuesday - Thompson Falls (Law & Motion)

7:00 a.m. - 2:45 p.m.

Reporter's Duties:	Number of Hours
Meet judge for drive (windshield time)	2
In-court duties	2.5
[Lunch]	3/4
Return drive (windshield time)	2
Number of Hours (Subtotal)	7.25

Tuesday - Missoula (Non-jury trials; show-cause hearings)

2:45 p.m. - 6:00 p.m.

Reporter's Duties:	Number of Hour
In-court duties	2
Duties performed for judge	1
Assembly of notes and miscellaneous duties	1/4
Number of Hours (Subtotal)	3.75
Total Number of Hours	11

Wednesday - Polson (Law & Motion)

7:30 a.m. - 7:00 p.m.

Reporter's Duties:	Number of Hours
Meet judge for drive (windshield time)	1.5
In-court duties	6
Assembly of notes	1/2
Duties performed for judge	1
[Lunch]	3/4
Return drive (windshield time)	1.5
Miscellaneous duties (Missoula)	1/4
Total Number of Hours	11.5

Thursday - Polson (Law & Motion; non-jury trials)

7:30 a.m. - 7:30 p.m.

Reporter's Duties:	Number of Hours
Meet judge for drive (windshield time)	1.5
In-court duties	6
Assembly of notes	1/4
Duties performed for judge	1.5
[Lunch]	

Thursday (continued)

Reporter's Duties:	Number of Hours
Return drive	1.5
Miscellaneous duties (Missoula)	1/2
Total Number of Hours	12

Friday - Missoula (Non-jury trials)

8:30 a.m. - 7:30 p.m.

Reporter's Duties:	Number of Hours
In-court duties	6.5
Assembly of notes	1/4
Duties performed for judge	2
Miscellaneous duties	1.5
[Lunch]	3/4
Total Number of Hours	11
TOTAL NUMBER OF HOURS FOR WEEK	55.5*

*N.B. When jury trials are scheduled, of course, this schedule could not apply. The number of hours spent during jury terms, generally speaking, would add another two hours for each day of the week, so that the total would be 65.5 hours spent in one of those weeks. Jury terms usually last for at least a month at a time.

FOURTH JUDICIAL DISTRICT
MISSOULA, RAVALLI, SANDERS,
MINERAL AND LAKE

JULIE A. MART
COURT REPORTE

John S. Henson
JUDGE OF THE DISTRICT COURT
MISSOULA COUNTY COURTHOUSE
MISSOULA, MONTANA
PHONE: (406) 721-5700

January 24, 1983

Senator Jean A. Turnage
Montana State Senate
Capitol Station
Helena, Montana 59601

Dear Jean:

I am writing to request your support for Senate Bill 196, a measure which would increase the salaries and transcript fees paid to court reporters.

The court reporters in our district have a heavy caseload, just as we do, and work hard to earn their salaries, which are among the lowest in the nation. If we can pay them salaries comparable to those in other states, we can retain our experienced reporters. Otherwise, Montana may serve as a training ground for unqualified reporters.

Transcript fees in Montana are verylow, and do not adequately compensate the reporters for their expenses, to say nothing of the many hours they must spend in transcript production.

My reporter has had numerous requests for appeal transcripts in criminal cases, and she must perform most of the work required in completing those transcripts on her own time, with little or no compensation for those hours of overtime work on her part.

I realize that there are budget considerations which may make salary increases a difficult proposition, but I feel that their proposal deserves serious consideration.

Since transcript fees are quite often paid by private litigants, the effect of an increase in this area would be simply to give the reporters a fair shake, rather than to make a large dent in the budget.

Your support will be appreciated.

Sincerely,

John S. Henson

James B. Wheelis
District Judge

Missoula County Courthouse
Missoula, MT 59801
(406) 543-7612

January 24, 1983

Senator Jean A. Turnage
Montana State Senate
Capitol Station
Helena, Montana 59601

Dear Jean:

Senate Bill 196, a measure to increase the salaries and transcript fees paid to court reporters, has my support, and I hope it will have yours.

As you know, the Fourth Judicial District has a very large caseload, and we judges and our reporters spend a good many hours in court. Our reporters frequently work in excess of sixty hours per week in the performance of their duties; however, they are paid at a rate which is lower than those paid in other parts of the country.

Despite the budget considerations you have to deal with, I submit that the request of the reporters for an increase merits approval. The interests of justice will be served by guaranteeing that we keep our qualified, experienced reporters in the courts.

The transcript fees paid to reporters, generally by private parties and not through State or county funds, are the lowest in the nation. Our heavy court schedule compels the reporters to work on transcript production on holidays, nights, and weekends, yet their costs of production are barely covered by the current fees. The reporters receive only minimal compensation for the hours they must spend preparing transcripts on appeal.

For these reasons, I urge you to give SB 196 your support.

Sincerely,

James B. Wheelis

JBW/thc

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Not Printed at Public Expense

NAME: Marlene B. Jordan DATE: 2/1/83

ADDRESS: P.O. Box 7635

PHONE: 721-4073

REPRESENTING WHOM? Montana Shorthand Reporters' Association

APPEARING ON WHICH PROPOSAL: SB 196

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: Fully support legislation, and am appearing to give testimony as president of MSRA.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Robert Nieboer DATE: 2-1-83

ADDRESS: 175 Buckboard Lane, Kalispell, M

PHONE: 755-2678

REPRESENTING WHOM? Montana Shorthand Reporters Assn

APPEARING ON WHICH PROPOSAL: SB 196

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: Chairman MSRA Legislative Committee
Will present testimony in support of
SB 196.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: JIM HATHAWAY DATE: 2-1-83

ADDRESS: 1405 TOMPY, MILES CITY, MT. 59301

PHONE: 232-4423

REPRESENTING WHOM? MONTANA SHORTHAND REPORTERS ASS

APPEARING ON WHICH PROPOSAL: SB 196

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: In support of SB196 pertaining to Official Court Reporters in the State of Montana.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

section 44-1-102 as referred to in number 4 of the amendment should be changed to 44-12-102. Senator Mazurek then moved to adopt the amendments. This motion passed unanimously. Senator Crippen moved that SB236 DO PASS AS AMENDED. This motion also passed unanimously.

ACTION ON SENATE BILL 201: Chairman Turnage referred the Committee to the letter written by Judge Harkin which summed up the intent of this bill. Senator Shaw moved that SB201 DO PASS. This motion carried with Senator Crippen voting in opposition.

FURTHER CONSIDERATION OF SENATE BILL 203: The Committee agreed that the intentions of this bill are good; however, they felt that the bill, as worded, would prevent a judge who was defeated during an election from serving. Action was therefore deferred so that this fact could be taken into consideration.

ACTION ON SENATE BILL 218: Senator Crippen moved that SB218 DO PASS. Senator Berg inquired as to the definition of "disturbed or inebriated" as referred to in the bill. The Committee agreed that these words would give the sheriff some discretionary latitude. The motion for a DO PASS recommendation was then voted on and passed unanimously.

FURTHER CONSIDERATION OF SENATE BILL 248: John Maynard of the Attorney General's Office, distributed a handout which explains his position on the bill (Exhibit "A"). This information had been requested by the Committee at the January 31 hearing. It was the concensus of the Committee that the bill was not acceptable for passing; however, there were some provisions which needed saving. The 90 day review of fitness to proceed and provision which allows the state to raise this issue were decided to be important. It was also agreed that it is necessary to correct the reference to section 10, which had been incorrectly referred to as section 9 by the past legislature. Counsel questioned if the Committee intended to include a provision for disposition of highly dangerous people who were unfit for further criminal proceedings. The Committee advised they felt a provision of this nature is necessary and referred the bill to counsel for work.

ACTION ON SENATE BILL 196: The Committee was concerned with the automatic cost-of-living adjustment provision of this bill. They felt that if this was passed for the court reporters, other county and city employees would request the same. The salary increase as proposed was again discussed. Senator Crippen suggested reducing the minimum base salary to $16,000 since their overall increase in salary is approximately 30%. Senator Halligan moved the adoption of the above. This motion passed unanimously. The Committee also felt that "for purposes of perfecting an appeal" should be deleted from page 4, line 5,

so as to eliminate any question of whether the reporter would prepare the appeal transcript for other purposes. The Committee also thought the wording which ties the transcript rates to the U.S. judicial conference rates should be deleted. Senator Berg moved to adopt these proposals. This motion passed unanimously. Senator Crippen then moved that SB196 DO PASS AS AMENDED. This motion also passed unanimously.

ACTION ON SENATE BILL 220: The Committee discussed the Department having the authority to approve restoration of good time. It was agreed that this authority should remain with the Department and that the bill was acceptable as drafted. Senator Crippen moved that SB220 DO PASS. This motion carried unanimously.

ACTION ON SENATE BILL 225: The Committee reviewed the bill and the effects of increasing the time period for holding a voluntary committal an additional five days. Senator Berg moved SB225 DO PASS. This motion carried with Senators Halligan, Mazurek and Crippen voting in opposition.

FURTHER DISCUSSION OF SENATE BILLS 23, 37 and 41: The Committee reviewed the intent of the proposed bills and amendments. It was their understanding that the major intent is to promote the streamlining of the water adjudication program. The constitutionality of giving the powers of a district court to a water judge was discussed. The Committee also expressed concern over giving the water courts administrative review powers. Taking jurisdiction from the district courts and putting it solely with four water judges was also a concern. Senator Galt suggested that Judge Lessley should be contacted so as to refresh the Committees' memories as far as his reasoning for some of these requests. It was agreed that action should be deferred until Judge Lessley has been contacted.

FURTHER CONSIDERATION OF SENATE BILL 26:

The Committee reviewed testimony from the January 21 hearing and concurred that they should try to act accordingly. It was agreed that Ravalli County should continue to be included in the 4th Judicial District and that Lake and Sanders Counties should be severed to create their own 20th Judicial District. Senator Shaw moved to amend SB26 accordingly. This motion passed unanimously.

Senator Daniels moved to delete Stillwater and Carbon Counties from the 6th Judicial District and to include these counties with Yellowstone in the 13th Judicial Districts, as suggested at the January 21 hearing. This motion passed with Senator Berg voting in opposition. The Committee agreed that the issue

STANDING COMMITTEE REPORT

February 2, 19 83

MR. PRESIDENT

We, your committee on Judiciary

having had under consideration Senate Bill No. 196

VanValkenburg

Respectfully report as follows: That Senate Bill No. 196

introduced bill, be amended as follows:

1. Title, line 5.
   Strike: "AND FOR AN ANNUAL COST OF LIVING INCREASE"
2. Page 1, line 16.
   Strike: "$18,000"
   Insert: "$16,000"
3. Page 1, line 19 through line 6 on page 2.
   Following: "works." on line 19.
   Strike: line 19 through "years." on line 6 on page 2.
4. Page 4, line 5.
   Strike: "For the purpose of perfecting an appeal"
5. Page 4, lines 9 through 11.
   Strike: "or at the maximum" on line 9 through "greater" on line 11.

And, as so amended,

DO PASS

JEAN A. TURNAGE, Chairman.

STATE PUB. CO.
Helena, Mont.

5. Page 4, line 11.
   Following: "commissioner"
   Insert: "with the approval of the court"

6. Page 4, line 19.
   Following: "commissioner"
   Insert: "with the approval of the court"

7. Page 5, line 5.
   Following: "commissioner"
   Insert: "with the approval of the court"

8. Page 13, line 23.
   Strike: Section 20 in its entirety.

And, as so amended,

DO PASS

JEAN A. TURNAGE, Chairman.

STATE PUB. CO.

MINUTES OF THE JUDICIARY COMMITTEE
March 4, 1983

The meeting of the House Judiciary Committee was called to order by Chairman Dave Brown in room 224A of the capitol building, Helena, Montana at 9:05 a.m. All members were present with the exception of Representative Daily, who was excused. Brenda Desmond, Staff Attorney for the Legislative Council, was also present.

SENATE BILL 196

SENATOR VAN VALKENBURG explained that this bill would provide for an increase in court reporters' salaries; secondly, it would require that official notes of the proceedings be stored for ten years; and, finally, it would provide for some needed change in the way court reporters are compensated for recording transcripts on appeals. He stated that, at the present time, the compensation for recording transcripts is based on a folio rate and that this is an antiquated method, which is based on a 100-word rate. He stated that this does not give good notice to litigants as to what is expected. He contended that it also does not adequately compensate an official court reporter for the kind of work that is involved in preparing a transcript on appeal.

JEROME ANDERSON, representing the Montana Court Reporters Association, offered a letter to the committee from DIAN G. BARZ, District Judge in Yellowstone County, Billings, Montana. See EXHIBIT A. He also offered testimony in support of this bill. See EXHIBIT B.

MARILYN JORDON, President of the Montana Court Reporters Association and a former court reporter for Judge Green in Missoula, Montana, presented to the committee a schedule of a typical week's workload, and indicated that this schedule almost did her in and she only lasted for a year. She stated that she typed her own transcripts and she would go home at around 7:00 p.m. and have to work on these transcripts. She indicated that it takes about four hours of transcription for every hour that is spend in the courtroom so the committee could see that there would be a good many hours involved in the preparation of an appeal. She explained that the reason it takes so much time to do this is that your must, first of all, read the notes, punctuate properly, there is research that has to be done on a transcript so that it is as accurate as possible and she indicated that, during this year, she saw very little of her husband.

She further informed the committee that, as far as salaries are concerned, it is becoming harder and harder for judges to hire qualified reporters when salaries are so low. She alleged that she personally worked as a free-lance reporter before she went to work for Judge Green, and she could make around $25,000.00 a year in this capacity rather than the $18,000.00 which was the maximum she would be paid. She testified that free-lance reporters now outnumber court reporters in the state of Montana and are doing most of the depositions. She explained that she was now working in federal court in Missoula, is under contract for $30.00 an hour with a maximum limit on what she can make at $200.00 per day. She explained that they felt the proposed transcript rate was a good medium rate that would compensate them fairly for a few years.

TIM SKELTON, Court Reporter of the Third Judicial District, commented that he was in favor of what MS. JORDON had to say. He indicated that he had made about $3,500.00 on appeals; and out of that figure, he had probably made $375.00. He stated that he paid a typist 70 cents a page, binding comes to about 40 cents a page, and that leaves him about 30 cents a page for a profit margin on overtime hours. He attested that it was not much of an incentive to put in these kind of hours.

PHIL FORDAHL, Court Reporter in Great Falls, stated that this is one of the busiest districts and he commented that his experience is comparable to Mr. Skelton. He said that his typist could put out about 10 to 12 pages an hour and he pays her 75 cents a page, which he feels should be raised because of the amount of expertise they need.

JEROME ANDERSON stated that Helena has just lost a court reporter in January, moving to Lander, Wyoming where he is making $27,500.00 compared to $14,700.00 in Helena.

There were no further proponents.

REPRESENTATIVE PISTORIA, Great Falls, District 39, assured the committee that he was not opposing the court reporters - we have to have them; but he explained that he has found out that court reporters do have a monopoly; that while getting

salaries, they also do outside work in taking depositions and they are hardly there all day. He contended that, while they are taking these depositions, the taxpayers are paying their salaries. He passed some pictures around showing boxes of paper, which he contended the court reporters were using for transcibing depositions; and he also passed a picture around of a desk which showed numerous papers, tapes, a tape recorder, etc. He contended that they were doing this during the day at taxpayers' expense. He cited a case where, in 1980, he was sued and he had to pay $814.00 for a transcript; and, under this new proposal, he would have to pay around $2,200.00. He exclaimed that he would like to see their income tax returns, and he was sure that they made more than the district judges.

SENATOR VAN VALKENBURG said that he would like to respond to Representative Pistoria's remarks; and he insisted that things are changing in the district courts; that there is a much greater workload; and courts are requiring more and more actual courtroom work by the official court reporters. He contended that what is happening, especially in the large caseload districts, court reporters are spending all day on their official court-reporting duties and with the judge. He indicated that court reporters are not sitting around with nothing to do and working on despositions, as contended by Representative Pistoria. He continued that these arguments may have had some merit in years goneby, but that is not the case anymore. He attested that court reporters are leaving Montana; they are going into federal courts; they are free-lancing; and to continue to attract competent, qualified court reporters, they are going to have to pay them adequately.

VICE-CHAIRMAN ADDY asked MS. JORDAN if she cared to respond to these remarks. She informed the committee that the photograph of boxes of paper was stenograph paper, which is the paper that fits into the court reporters machine; and she said that, in state court, the counties provide this paper. She declared that there may be instances, of which she is not aware, that there may be abuses; but, in federal court, she provides all of her own materials, her own machine, her own ink, her own ribbons, her own stenograph and transcript paper; and if she would like to have an office, they will

provide the space, but she must furnish the office. She further continued that, as far as official court reporters are concerned, they do have a monopoly, as they are the only person who an individual can turn to if they would like a transcript and that is why that transcript rate must be regulated by the people in the legislature.

REPRESENTATIVE KEYSER questioned in a criminal transcript, who basically requests and receives the transcript. MS. JORDAN replied that it depended on who loses the case.

REPRESENTATIVE KEYSER wondered if the county attorney pays for this. MS. JORDAN responded that the county attorney does not pay for it, unless he ordered the transcript himself; and generally, it is the criminal who has been convicted and he often is indigent.

REPRESENTATIVE KEYSER asked if, in the criminal cases, most of the requests come from the defendant's attorney and MS. JORDAN replied that that is correct.

REPRESENTATIVE KEYSER noted that times are very tough and they come in and ask for a 33 per cent increase of a top salary maximum, and he wondered why they should give court reporters more money than they are giving anybody else in state government this year. SENATOR VAN VALKENBURG responded that they are not setting salaries, they are setting the range; there is a real need to be able to attract qualified court reporters; it may be difficult to get someone to go to the Fifth Judicial District and work in Virginia City, Dillon or Boulder and Senator Hazelbaker was extremely concerned about that. He said that it was possible that the district court judges may grant the full increase, but he felt that is where it should be.

MR. ANDERSON clarified that the reason for expanding the range is to prevent the necessity of coming in biennially for a salary adjustment as court reporters have been doing for the last four or five sessions. He said that it is not contemplated that the judges will raise the salaries up to $26,000.00.

REPRESENTATIVE KEYSER wondered on what assumption does he base this - that he had not seen anything in the past that would

indicate that he was correct. MR. ANDERSON contended that every court reporter in Montana is not making $20,000.00 now. REPRESENTATIVE KEYSER said they are very close, aren't they. MR. ANDERSON replied the major portion of them do, but one in Glasgow is making $15,000.00, one making $17,000.00 and two making $18,000.00.

REPRESENTATIVE EUDAILY presented a letter from JACK L. GREEN, Judge of the District Court, Missoula, Montana. See EXHIBIT D. REPRESENTATIVE EUDAILY noted that, under the assumptions on the fiscal note, it listed 32 court reporters anticipated; there are several bills before the legislature to increase the number of judges, so that will increase the number of court reporters; and that there would be a fiscal impact in that respect. He cited that, assuming the judges did increase these salaries to the maximum, using $25,500.00 and just 32 judges, instead of an increase, he figured an increase of $192,000.00 on the counties. He said that all through this session, they have heard a cry that the counties cannot make it. He wondered how did they propose to pay for it. MR. ANDERSON said that part of the funding from the district court budget is taken from filing fees; and the judge sits down with the county commissioners and they arrange the salary schedules.

REPRESENTATIVE EUDAILY contended that is it not true that the judges set the salaries and the county commissioners just stamp it. MR. ANDERSON replied that if he were a county commissioner, he would take a position on it. He felt that most judges want to be reelected to office and are responsive to what the county's needs are.

REPRESENTATIVE HANNAH cited that he understood in Billings that the county commissioners are concerned, as the judges do not negotiate or visit with the county commissioners about setting salaries. He noted that there are 32 court reporters and he mentioned there were four that are not at the maximum and he wondered if there were more than that. MR. ANDERSON replied that that is about it.

REPRESENTATIVE HANNAH asked if he really believed that the county commissioners were going to have any influence on the judges. MR. ANDERSON replied that he understood that in most

of the districts in Montana, they do get together and discuss salary increases.

REPRESENTATIVE HANNAH asserted that most of the free-lance transcript work in Yellowstone County is done by the district and federal court reporter. MR. ANDERSON replied that that is entirely incorrect; there is a substantial number of free-lance court reporters in Billings; they are very successful and make a substantial amount of money.

REPRESENTATIVE HANNAH noted that there was nothing in the bill relating to daily copy. MR. ANDERSON responded that he would not expect a court reporter to supply a daily copy at the rates set forth in this bill. He contended that a single reporter just cannot do it.

REPRESENTATIVE HANNAH wondered how they could handle that if they wanted daily copy. MR. ANDERSON replied that the necessity for daily copy varies from case to case; he explained that in a case he was involved in they arranged for a reporting service from Denver; the reporters would rotate; they would take a half-hour of testimony and then another would take another half-hour while the first was typing. He contended that there would be no way to set this out in a bill. He further explained that a daily copy is a rough draft of the testimony that is taken on that day during the course of the trial; it is pounded out as rapidly as possible; errors are not corrected; there is xing out; it is not cleaned up but that rough draft may be used in the transcript on appeal.

REPRESENTATIVE PISTORIA told the committee that in his case they would not give him a transcript until he put some money down. MR. ANDERSON responded that if a litigant cannot pay for a transcript, he can request by petition that the transcript be paid for him. He stated that the reason the recorders want some up-front money is the same reason why lawyers request a retainer.

SENATOR VAN VALKENBURG stated that in the appropriations process, there is a proposal that they provide $1.8 million to local governments for grants in aid for district court operations, which is about $1 million increase over what the legislature is now providing and it does provide for a basis for this increase in fees and is one which is likely to pass.

REPRESENTATIVE EUDAILY asked if this would not be sent to appropriations for consideration as long as it is in the governor's budget. SENATOR VAN VALKENBURG replied that that is a matter that is solely in the discretion of the House.

MS. JORDAN commented that when she worked for Judge Green in Missoula, she took five depositions in that year; as a free-lancer, she took five in a day; she took two at 7:00 in the morning; she took one at 8:00 at night and the others she took in Polson for the county attorney from Hamilton, who needed them for a criminal case the following week; and she emphasized that never, under any circumstances, would she take county money and go out and do free-lance work at the same time.

REPRESENTATIVE ADDY asked REPRESENTATIVE PISTORIA if he thought we could attract good court reporters for the salary we pay them, when a free-lance court reporter in taking a depostion from a doctor, is charging more than the doctor. REPRESENTATIVE PISTORIA emphasized that he knows that there are three or four court reporters in Great Falls that go out and take depositions for other attorneys and he bet it was going on in Missoula in some of the courts.

There were no further questions and the hearing on this bill was closed.

SENATE BILL 218

SENATOR VAN VALKENBURG stated that this was a bill requested by the sheriffs which would change some antiquated language in the statutes about how they are to house prisoners in county jails. He said that presently they are suppose to segregate prisoners based on whether they are pre-trial, whether they have been convicted or whether they are being held on civil process. He contended that county jails are really not capable of being broken up in that fashion and this does not work to the prisoner's best interest. He said this bill would allow the sheriff to judge as to whom are the dangerous people and those considered to be non-dangerous. He indicated that there is a real problem in putting people who are charged with a DUI in with people who are charged with

REPRESENTATIVE SEIFERT said that he did not see where we need to amend this because on lines 13, 14 and 15 on page 1, it says, "Each county jail must contain a sufficient number of rooms to allow the sheriff to separately confine classes or prisoners as may be necessary to the security and safety of those prisoners and the jail" and then on page 2, it says, "persons who are violent, disturbed or inebriated must not be kept or put into the same room with other prisoners. He said it is clear enough for him and he could not see where it is that big a problem.

REPRESENTATIVE EUDAILY asked if he was saying to keep it in the original language and not to amend it. REPRESENTATIVE SEIFERT replied that he would think so. REPRESENTATIVE EUDAILY noted that the original language is more what they want.

REPRESENTATIVE KEYSER indicated that if we left the language as it is and added on, "except in the booking process" that this might take care of the problem. SENATOR VAN VALKENBURG responded that he would have no problem with that and he did not feel that it was any problem to leave it as it is.

A vote was taken on the motion that the bill BE CONCURRED IN. The motion carried unanimously.

SENATE BILL 196

REPRESENTATIVE EUDAILY moved that this bill BE CONCURRED IN. REPRESENTATIVE JENSEN seconded the motion.

REPRESENTATIVE KEYSER moved to amend the bill on page 1, line 19 by striking "$26,000" and inserting $23,000", seconded by REPRESENTATIVE HANNAH.

REPRESENTATIVE KEYSER explained that the reason he is doing that is it allows for a six per cent increase per year, which is what they are talking about for other state employees; and while he is in sympathy with trying to get people who are of better quality, he does not feel that he could vote for this bill, as he feels there will be an additional cost to the county and he told his county commissioners that he would not be for any additional cost to the counties. He indicated that if they go to $26,000.00, they are talking about an almost 33 per cent increase at the top level.

REPRESENTATIVE HANNAH agreed with REPRESENTATIVE KEYSER, saying that they are clarifying the rates they will be getting for

their transcripts and the end result of that is that they will be making more money off of their transcripts.

REPRESENTATIVE ADDY indicated that he realized that this is a 30 per cent increase, or 15 per cent per year; but he felt they were talking about a group of people that they are trying to catch up with the private sector so that they can attract qualified people. He said that he has a great deal of difficulty finding any court reporter that is available to take a deposition in Yellowstone County. He also felt that people are going to be attracted away from court reporting in rural areas. He moved to amend the amendment by making this a maximum of $24,000.00 over the next two years. REPRESENTATIVE SPAETH seconded the motion. A vote was taken on this amendment and it failed with 6 voting aye and 8 voting no. See ROLL CALL VOTE.

A vote was taken on the amendment to change the maximum to $23,000.00. The vote was 8 ayes and 7 nos. See ROLL CALL VOTE.

REPRESENTATIVE SPAETH moved that the bill be amended on pages 4 and 5 in section 3, on line 23 on page 4, by reiserting the old language, as he felt that the judge should get a free copy of the transcript. REPRESENTATIVE DAVE BROWN seconded that motion. The motion carried with REPRESENTATIVE JENSEN and REPRESENTATIVE SCHYE voting no.

REPRESENTATIVE SPAETH moved that the bill BE CONCURRED IN AS AMENDED. REPRESENTATIVE KEYSER seconded the motion. The motion carried with REPRESENTATIVE FARRIS voting no.

The meeting adjourned at 11:14 a.m.

Dave Brown
DAVE BROWN, Chairman

Alice Omang
Alice Omang, Secretary

Exhibit A

STANDING COMMITTEE REPORT

March 4, 19 83

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 196

third reading copy (blue color)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN INCREASE IN COURT REPORTERS' SALARIES ~~AND PROVIDING FOR AN ANNUAL COST OF LIVING INCREASE~~; REQUIRING THAT OFFICIAL NOTES OF PROCEEDINGS BE STORED FOR 10 YEARS IN THE COUNTY WHERE THE PROCEEDINGS WERE HELD; AND PROVIDING FOR CHANGES IN COURT REPORTERS' DUTIES CONCERNING TRANSCRIPTS AND TRANSCRIPT FEES; AMENDING SECTIONS 3-5-602 THROUGH 3-5-604, MCA."

Respectfully report as follows: That SENATE Bill No. 196

BE AMENDED AS FOLLOWS:

1. Page 1, line 19.
Strike: "$26,000"
Insert: "$23,000"

2. Page 4, line 23.
Following: "therefor."
Insert: "If the judge requires a copy in a civil case to assist him in rendering a decision, the reporter must furnish the same without charge therefor."

3. Page 4, line 24.
Following: "by"
Strike: "the judge or"

AND AS AMENDED
BE CONCURRED IN

~~DO PASS~~

DAVE BROWN, Chairman

STATE PUB. CO.
Helena, Mont.

A's to SB 196

#3 Page 4, line 24
Following: " by "
Strike: " the judge or "

Exhibit A
3/4/83
SB 196

Thirteenth Judicial District

Counties
BIG HORN
CARBON
STILLWATER
TREASURE
YELLOWSTONE

DIANE G. BARZ
District Judge
P.O. Box 35026, Yellowstone County Courthouse
BILLINGS, MONTANA 59107

February 25, 1983

The Honorable Kelly Addy
Representative for the State of Montana
Capitol Building
Helena, Montana 59601

Dear Representative Addy:

I write to encourage your support of SB 196. By virtue of my work, I am intimately familiar with the court reporting profession and the matters addressed by SB 196.

The bill clarifies and provides a uniform payment for transcripts which is fair. Under present law, it is impossible to determine what a folio is. Should we fail to provide competitive salaries and realistic page rate allowances, competent court reporters will be difficult to find.

In addition, in our busier judicial districts, the official court reporters are deprived of opportunities to earn outside income because of the time they must spend in Court. It is important that the Courts have the means to attract good reporters for courtroom work.

I urge your support of SB 196.

Sincerely,

Diane G. Barz

DGB/jcb

Exhibit B
SB 196
3/4/83

COMMENTS IN SUPPORT OF S.B.196

Senate Bill 196, introduced by Senator Van Valkenberg and others, addresses three principal matters concerning official court reporters--those being: (1) salary limitations; (2) cost of living adjustments; (3) compensation for preparation of transcript on appeal; and (4) provision of storage facilities for reporters' notes. This legislation does not affect "free-lance" reporters who are not employed by a district judge.

SALARY AND COST OF LIVING ADJUSTMENT

Present law provides that a court reporter shall be paid an annual salary of not less than $14,000 nor more than $20,000. The actual salary amount is set by the Judge for whom the reporter works. SB196 proposes to raise the salary range to not less than $18,000 nor more than $26,000 per year.

SB196 also adds to the statute a provision for an annual cost of living adjustment to be added to the court reporter's base annual salary each year. The proposed cost of living adjustment is the same as that now provided for juvenile probation officers. The amount of the adjustment is the equivalent of 70% of the previous calendar year's consumer price index.

The increase in annual salary levels and the application of a cost of living adjustment is requested in SB196 to end the necessity for court reporters to come to each general session of the legislature seeking salary adjustments.

Salaries of official court reporters in Montana vary from $15,000 to $20,000 per year. In contrast, one Federal Court reporter in Montana is paid $32,000 per year and another is working for a Federal Judge under contract for $30.00/hour with a $200.00 per day maximum.

Salaries for court reporters in surrounding states are generally higher than Montana and in some cases include cost of living adjustments. Salaries in other states are:

North Dakota

Class I	$18,000 to $27,000	(The lower figure is entry figure; after 6 months the salary is increased.)
Class II	$21,600 to $31,000	(Average salary being paid Class II reporters is $28,000 per year.)

Idaho

$24,000 per year with cost of living index.

Wyoming

$27,795 per year.

Washington

$15,000 to $30,000 per year, varying with the size of the counties and with cost of living index for lower paid reporters.

Utah

$21,000 per year with 3% increment.

South Dakota

$17,180 per year with cost of living adjustment.

During the month of January 1983, a court reporter for a District Judge in Helena accepted a position with a Judge in Lander, Wyoming, at the Wyoming salary of $27,795 per year.

The statutory salary maximum for court reporters was $16,000 per year in 1975 and was increased to $18,000 per year in 1979, and to $20,000 per year in 1981. If a 7% per year increase had been applied during the period 1975 through 1981, the salary maximum should have been set at $24,000 rather than the present $20,000 figure.

The proponents believe that the amounts set in SB196, together with the COLA, allow sufficient flexibility in establishing reporters' salaries so that reporters will not have to come back to the legislature session after session for salary relief.

COMPENSATION FOR PREPARATION OF TRANSCRIPTS ON APPEAL

Section 3 of SB196 provides for specific amounts to be paid by litigants for preparation of transcripts on appeal. This is the amount set by the U.S. Judicial Conference to be paid in connection with appeals in Federal Court.

Whenever a party in a civil or criminal action desires to appeal from a judgment or order of a district court or administrative agency under circumstances where a hearing or trial has been held, all or certain portions of the testimony or proceeding in the distric court will be designated as part of the record on appeal. This is called the transcript and is prepared by the court reporter from the stenographic notes made by the reporter at the time of the testimony or proceedings. The cost of preparation of the transcript is

paid by the parties to the law-suit. The only time the cost is borne by the county or the state is in cases of appeals by indigent defendants in criminal cases or when the state is a litigant.

Montana law (Sec. 3-5-604, MCA) presently provides that the reporter be compensated at the rate of 10¢ per folio for preparation of the transcript. While there is some variance as to the definition of a "folio" it is generally accepted that one page contains three (3) folios. Thus, the present statute only allows payment of 30¢ per page. The appellant must file one original and four copies of the transcript. Thus, the reporter is paid $1.50 per page for one original and four copies of the transcript. This amount does not adequately compensate a reporter for the work done and materials furnished by the reporter in preparation of the transcript. It is pertinent to note that transcript preparation involves work done by the reporter which is in addition to the reporter's normal duties and is generally accomplished at night or on weekends.

In contrast, the following transcript rates are paid in surrounding states:

Wyoming

$2.25 per page for original and for one copy.
.90 per page for each additional copy

(Is $4.95 per page for 1 original and 4 copies, as compared to $1.50 per page in Montana.)

South Dakota

.60 per folio or 1.50 per page for original.
.50 per folio or [illegible] per page for copies.

(Is $3.50 .50 per page for original and 4 copies as compared to $1.50 per page in Montana for the same number.)

Washington

$2.00 per page for indigents.

(Is $10.00 per page for original and 4 copies as compared to $1.50 per page for same number in Montana.)

In all other cases the rate is established by agreement between the reporter and the appellant.

North Dakota

$1.90 per page for original
.35 per page for first copy
.15 per page for each additional copy

North Dakota (continued)

(Is $2.70 per page for original and 4 copies as compared to $1.50 per page for same number in Montana.)

Idaho

$2.00 per page for original. Copies in the amount agreed to.

Utah

$0.50 per folio for all pages. (Is $1.50 per page.)

(Is $7.50 per page for original and 4 copies as compared to $1.50 in Montana.)

A review of the above figures makes it clear that reporters in Montana receive substantially less than reporters in other surrounding states for transcript work.

The amount of transcript work done by each reporter varies with the activity of the court in which they serve. Some may have none during a year's time and others may have several.

We re-emphasize that transcript work is work that is in addition to the normal work done by reporters.

SB196 additionally provides that in civil cases all transcripts required by the judge or the county shall be furnished by the reporter and only the reporter's actual costs of preparation (paper, ink, etc.) shall be paid by the county.

STORAGE OF REPORTERS' NOTES

Section 2 of SB196 adds a provision in the statute which requires the county to provide for the Clerk of Court a safe and secure place for the storage of all official notes of court proceedings. These are notes taken by the court reporter. Present practic with regard to storage of these notes has varied from one district to another because, in many districts, the Clerks of Court have not had sufficient room available for such storage. Such notes should be filed with the Clerk of Court so that the notes are in the custody of a permanent and continuing office. This provision of SB196 simply ensures that a place will be made available for such storage.

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Prepared and circulated by Jerome Anderson, Registered Lobbyist for the Montana Short-Hand Court Reporters Association.

EXHIBIT C
SB 196
3/4/83

TYPICAL WEEK'S SCHEDULE

Monday - Missoula (Law & Motion):

8:30 a.m. - 6:00 p.m.

Reporter's Duties:	Number of Hou
In-court duties; i.e., making a verbatim stenographic record of all matters before the Court, including criminal cases; probates, default divorces, and other ex parte matters; show-cause hearings; non-jury trials; and sanity hearings	6
Duties performed for judge, including reading of stenographic notes in cases pending decision, screening of phone calls, and transcription of judge's comments made to defendants on sentencing in criminal cases (no fee charged for transcripts)	2.5
Assembly of notes to be filed with the Clerk of Court	1/2
Miscellaneous duties, including filing of notes, calendaring of cases, scheduling of judge's appointments, and maintenance of shorthand machine	1/2
[Lunch]	1/2
Total Number of Hours	10

Tuesday - Thompson Falls (Law & Motion)

7:00 a.m. - 2:45 p.m.

Reporter's Duties:	Number of Hou
Meet judge for drive (windshield time)	2
In-court duties	2.5
[Lunch]	3/4
Return drive (windshield time)	2
Number of Hours (Subtotal)	7.25

Tuesday - Missoula (Non-jury trials; show-cause hearings)

2:45 p.m. - 6:00 p.m.

Reporter's Duties:	Number of Hou
In-court duties	2
Duties performed for judge	1
Assembly of notes and miscellaneous duties	1/4
Number of Hours (Subtotal)	3.75
Total Number of Hours	11

Wednesday - Polson (Law & Motion)

7:30 a.m. - 7:00 p.m.

Reporter's Duties:	Number of Hou
Meet judge for drive (windshield time)	1.5
In-court duties	6
Assembly of notes	1/2
Duties performed for judge	1
[Lunch]	3/4
Return drive (windshield time)	1.5
Miscellaneous duties (Missoula)	1/4
Total Number of Hours	11.5

Thursday - Polson (Law & Motion; non-jury trials)

7:30 a.m. - 7:30 p.m.

Reporter's Duties:	Number of Hou
Meet judge for drive (windshield time)	1.5
In-court duties	6
Assembly of notes	1/4
Duties performed for judge	1.5
[Lunch]	3/4

Thursday (continued)

Reporter's Duties:	Number of Hours
Return drive	1.5
Miscellaneous duties (Missoula)	1/2
Total Number of Hours	12

Friday - Missoula (Non-jury trials)

8:30 a.m. - 7:30 p.m.

Reporter's Duties:	Number of Hours
In-court duties	6.5
Assembly of notes	1/4
Duties performed for judge	2
Miscellaneous duties	1.5
[Lunch]	3/4
Total Number of Hours	11
TOTAL NUMBER OF HOURS FOR WEEK	55.5*

*N.B. When jury trials are scheduled, of course, this schedule could not apply. The number of hours spent during jury terms, generally speaking, would add another two hours for each day of the week, so that the total would be 65.5 hours spent in one of those weeks. Jury terms usually last for at least a month at a time.

FOURTH JUDICIAL DISTRICT
MISSOULA, RAVALLI, SANDERS,
MINERAL AND LAKE

Jack L. Green
JUDGE OF THE DISTRICT COURT
COUNTY COURTHOUSE
MISSOULA, MONTANA 59802

CERESE S. WARDEN
COURT REPORTER

Exhibit D
SB196
3-4-83

March 1, 1983

Representative Ralph S. Eudaily
Montana State House of Representatives
Capitol Station
Helena, Montana 59601

Dear Representative Eudaily:

Senate Bill 196, a bill for an act to increase the salaries and transcript fees paid to court reporters, has my support, and your support would be appreciated as well.

Reporters in this state are paid at the lowest rates in the country for their in-court work. I appreciate that there are problems with salary bills because of the current economic situation, but I feel that this proposal should be given consideration simply so that we can continue to have reporters who are well-qualified and experienced in our courts.

The transcript fees, which are largely paid by private litigants rather than through State or county funds, are extremely low. Reporters in our district have the same heavy caseload we judges do, and their work on appeal transcripts must be done in the evenings and on weekends, after they have completed their duties in court.

The honest, hard-working reporter who charges the statutory rate for his transcripts is barely compensated for his expenses of production, and receives little or no compensation for the great number of overtime hours he must spend on appeal work. Reporters in most other states are paid more for the original transcript alone than our reporters receive for the original and all copies required under the current appellate rules.

The transcript rate has been raised only twice since the 1890's, yet the reporters' costs have increased regularly. I believe that the reporters are entitled to a fair return for the hours they devote to transcript production, and would urge strongly that you vote for this measure.

Sincerely yours,

Jack L. Green

JLG:csw

cc

SENATE BILL NO. 196

INTRODUCED BY VAN VALKENBURG, MAZUREK, STIMATZ, KEATING, OCHSNER, BOYLAN, B. BROWN, DANIELS, CRIPPEN, MCCALLUM

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN INCREASE IN COURT REPORTERS' SALARIES ~~AND FOR AN ANNUAL COST OF LIVING INCREASE~~; REQUIRING THAT OFFICIAL NOTES OF PROCEEDINGS BE STORED FOR 10 YEARS IN THE COUNTY WHERE THE PROCEEDINGS WERE HELD; AND PROVIDING FOR CHANGES IN COURT REPORTERS' DUTIES CONCERNING TRANSCRIPTS AND TRANSCRIPT FEES; AMENDING SECTIONS 3-5-602 THROUGH 3-5-604, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-5-602, MCA, is amended to read:

"3-5-602. Salary and expenses -- apportionment. (1) Each reporter is entitled to receive ~~an~~ a base annual salary of not less than ~~$14,000~~ $18,000 $16,000 or more than ~~$20,000~~ $26,000 $23,000 and no other compensation except as provided in 3-5-604. The salary shall be set by the judge ~~in the district in which~~ for whom the reporter works. ~~The judge shall, on or before July 1, 1984, and on or before July 1 of each year thereafter, adjust and fix the salary of the court reporter for a cost-of-living increase by adding to his annual salary on July 1 of each year an increment of 70% of the previous calendar year's consumer price index for all urban consumers (U.S. department of labor, bureau of labor statistics) or other index that the bureau of business and economic research of the university of Montana may in the future recognize as the successor to that index. The cost-of-living increment for the fiscal year beginning July 1, 1984, and for each subsequent fiscal year shall be added to all cost-of-living increments granted for previous years.~~ The salary is payable in monthly installments out of the general funds of the counties comprising the district for which the reporter is appointed. Each county shall pay its portion of the salary based on its proportion of the total number of civil and criminal actions commenced in the district courts in the district in the preceding year. The judge of the district shall, on January 1 of each year or as soon thereafter as possible, apportion the amount of the salary to be paid by each county in his district on the basis prescribed in this subsection. The salary is a district court expense within the meaning of 7-6-2351, 7-6-2352, and 7-6-2511.

(2) In judicial districts comprising more than one county, the reporter is allowed, in addition to the salary and fees provided for in subsection (1), his actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, when he goes on official business

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to a county of his judicial district other than the county in which he resides, from the time he leaves his place of residence until he returns thereto. The expenses shall be apportioned and payable in the same way as the salary."

Section 2. Section 3-5-603, MCA, is amended to read:

"3-5-603. Duties. ~~(1)~~ Each reporter must, under the direction of the judge, attend all sittings of the court and take full stenographic notes of the testimony and of all proceedings given or had thereat except when the judge dispenses with ~~his~~ the reporter's services in a particular cause or with respect to a portion of the proceedings therein. The reporter must file with the clerk forthwith the original stenographic notes taken upon a trial or hearing required to be taken by this subsection. The county in which the proceedings are held shall provide a safe and secure place for the clerk to store all official notes of the proceedings. The official notes must be kept for a period of 10 years.

~~(2) All objections made during the trial or hearing and the rulings, decisions, and opinions of the court must be written out at length or printed in type by the reporter and filed with the clerk immediately after the close of the trial or hearing.~~"

Section 3. Section 3-5-604, MCA, is amended to read:

"3-5-604. ~~Copies~~ Transcript of proceedings. (1) Each

reporter must furnish, upon request, with all reasonable diligence, to ~~the defendant in a criminal case or~~ a party or his attorney in a ~~civil~~ case in which he has attended the trial or hearing a ~~copy, written out at length or in narrative form~~ transcript from his stenographic notes, of the testimony and proceedings ~~upon~~ of the trial or hearing or a part thereof ~~for purposes of perfecting an appeal~~, upon payment by the person requiring the same ~~of 10 cents per folio~~ $2.00 per page for the original transcript, 50 cents per page for the first copy, 25 cents per page for each additional copy or at the maximum ordinary transcript rates authorized by the MJC judicial conference, whichever is greater.

(2) If the county attorney, attorney general, or judge requires a ~~copy~~ transcript in a criminal case, the reporter is entitled to his fees therefor, but he must furnish it. Upon furnishing it, he shall receive a certificate of the sum to which he is so entitled, which is a county charge and must be paid by the county treasurer upon the certificate like other county charges.

(3) ~~If the judge requires a copy in a civil case to assist him in rendering a decision, the reporter must furnish the same without charge therefor.~~ IF THE JUDGE REQUIRES A COPY IN A CIVIL CASE TO ASSIST HIM IN RENDERING A DECISION, THE REPORTER MUST FURNISH THE SAME WITHOUT CHARGE

THEREFORE, In civil cases, all transcripts required by ~~the judge or~~ the county shall be furnished ~~without cost, and~~ only the reporter's actual costs of preparation may be paid by the county.

(4) If it appears to the judge that a defendant in a criminal case is unable to pay for a ~~copy~~ transcript, it shall be furnished to him and paid for by the county."

-End-

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